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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/623,720   | 07/22/2003  | Matthew Hayduk       | 034017R010          | 4936             |
| 441  | 7590        | 05/23/2005           | EXAMINER            |                  |
| SMITH, GAMBRELL & RUSSELL, LLP<br>1850 M STREET, N.W., SUITE 800<br>WASHINGTON, DC 20036 |             |                      | TAWFIK, SAMEH       |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3721                |                  |

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/623,720

Applicant(s)

HAYDUK, MATTHEW

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41, 43, 45 and 46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25, 30, 33, 35-40, 43, 45 and 46 is/are rejected.
- 7) ☒ Claim(s) 26-29, 31, 32, 34 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10042005, 10082004, 12152004, 03162005.</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-25, 30, 33, 35, 36, 38, 40, 43, 45, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Speedy Packer of Sealed Air Corporation user's guide.

Speedy packer discloses a foam-in-bag dispenser system, comprising; a film supply support (Fig. 2-1; via material roll); a film feeding device for drawing film from a film source supported on said film supply support (via on/off switch); a dispenser having a foam material outlet (Fig. 1-8; via dispenser 9); a bag forming apparatus which forms bags for receiving the foam material output of the dispenser (Figs. 2-1 and 2-2; via by opening and filling the bag), and wherein said dispenser comprises a mixing module which receives a foam precursor chemical and a dispenser housing which internally receives said mixing module and is in contact with being drawn past said housing by said film feeding device, and said housing being dimensioned as to present a smooth contact surface over all areas of film contact with said housing (Figs. 1-2; via A and B).

Regarding claim 2: wherein said housing includes a diver a diverging outward upper edge portion and two planar side surfaces extending down from respective opposite ends of said diverging outward upper edge portion (Figs. 1-2 and 1-7).

Regarding claim 3: further comprising a dispenser housing support which supports said dispenser housing so as to have a fixed interior end and a free outward end, with said dispenser housing having front and back surfaces, and wherein said film feeding device feeds front and back film sheet sections into contact with respective front and back surfaces (Figs. 2-1 and 1-8).

Regarding claim 4: wherein said film feeding device includes a source of C-fold film and feeds said C-fold film past said housing with a fold edge of said C-fold film (Fig. 2-2; via V-fold is similar and could be seen as C-fold) positioned even further outward of said outward end of said dispenser housing and with the opposite non-joined edges being located a distance outward of the interior end of said housing (Fig. 2-2).

Regarding claim 5: wherein said film feeding device includes a nip roller (page 1-8; via 12 the drive roller) set which receives film following passage downstream with respect to film feed travel of said housing and places in contact the non-joined edges for edge sealing purposes (page 1-8; via 11 the seal roller).

Regarding claim 6: wherein said mixing module includes a reciprocating rod in a chemical outlet passage of said mixing module and said housing supports drive components of a drive transmission which is engaged with said rod for reciprocation within said mixing module Fig. 1-8; via pivoting dispenser bracket 10).

Regarding claim 7: wherein said drive transmission includes a sliding crank mechanism covered by said dispenser housing (Fig. 1-8).

Regarding claims 8 and 23: further comprising a motor in driving engagement with said drive transmission with said motor being positioned external to said housing (via motor 13).

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Regarding claim 9: wherein said housing includes a main housing portion which has outer walls representing a majority of the planar surface area in contact with the film being fed past said housing and is an external component (Fig. 2-1; via the cover).

10. (Original) The system as recited in claim 1 wherein said dispenser housing includes a free end housing section with said mixing module being mounted at said free end housing section and said free end housing section having an access door which is adjustable between a closed, mixing module cover mode and an open mixing module access mode (Figs. 1-2 and 1-7; via where the hoses enter is considered as door by pivoting by the screw as shown on the side of the cover).

Regarding claim 11: wherein said access door is pivotably mounted for rotation between said cover mode and said access mode (Fig. 2-1; it is inherent that the cover is pivoted as the screw shown on the side of the cover).

Regarding claim 12: wherein said free end housing section includes a fixed surface to which is connected a door closure and mixing module seal compression device which is adjustably mounted for movement between a compression on access door state and a non-compression on access door state (Fig. 1-7; it is inherent that the cover door is moving between a compression and non-compression access).

Regarding claims 13 and 14: wherein said door closure and mixing module seal compression device comprises an over center toggle clamp wherein said overcenter toggle clamp includes means for adjusting full toggle closure compression level on said door (Fig. 1-7; it is inherent that the door must have a clamp to clamp it when it is closed).

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Regarding claim 15: wherein said housing and mixing module include male/female position mount means for positioning said mixing module in a proper location prior to door closure covering (Fig. 1-8; via dispenser 9 and the hose as male/female relationship; then covered by the door as shown in Fig. 1-7).

Regarding claim 16: further comprising a chemical inlet manifold and a dispenser housing support which supports said dispenser housing so as to have a fixed interior end and a free outward end, and wherein said fixed interior end is in chemical flow communication with said inlet manifold and said housing has first and second chemical passageways formed therein and extending from said inlet manifold to outlet port holes positioned for fluid communication with inlet ports formed in said mixing module when supported in said housing (Fig. 1-2; via hoses extended out of chemical supply containers A and B).

Regarding claim 17: wherein said mixing module has inlet port projections which are sized for retention of seals which stay fixed to said mixing module and form a sealing relationship with the outlet ports of said chemical passageways formed in said housing (Fig. 1-2).

Regarding claim 18: further comprising a solvent passage hole in said manifold and a solvent passageway in said dispenser housing having a solvent outlet port positioned for solvent feed to said solvent passage hole of said mixing module when mounted on said dispenser housing (Fig. 2-1).

Regarding claim 19: further comprising a heater reception passageway formed in said dispenser housing and positioned within two inches of each of said dispenser housing chemical and solvent passageways (page 1-12; via 24).

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Regarding claim 20: further comprising an inlet manifold heater positioned in said inlet manifold (Fig. 1-2).

Regarding claim 21: further comprising manifold flow shut off valves, pressure transducers for a monitoring pressure levels of chemical being fed to said dispenser housing and filter units supported by said inlet manifold and said dispenser housing encompassing a portion of a drive system for reciprocating the end rod of said mixing module and said drive system including a drive motor, and wherein each of said shut off valves, drive motor, filter units, and transducers are spaced a distance inwardly away, in a direction of elongation of the housing, from an interior edge of the film being fed past said housing so as to avoid foam contact therewith (via control panel 5 and controller 6).

Regarding claim 22: further comprising a heater reception passageway formed in said dispenser housing and positioned within two inches of each of said dispenser housing chemical passageways (page 1-12; via 24).

Regarding claim 24: wherein the bag forming apparatus is positioned for receipt of chemical output by the mixing module for containment in the bag once formed (1-8; via dispenser 9, web roller, and sealing roller; page 1-10; via 19).

Regarding claim 25: wherein said crank and slider combination include a crank member which is rotatably driven by said motor and which is connected to a first end of a crank connecting rod which crank connecting rod has a second end connected to a slider, and said crank and slide combination being positioned at a forward dispensing end of said dispenser housing (Fig. 1-8; via showing the mechanical parts of the device).

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Regarding claim 30: wherein said drive transmission includes a drive shaft which is driven by an output shaft of said motor and which is in driving communication with a crank mechanism of said crank and slide combination and received within said dispenser housing (Fig. 1-8, showing all the mechanical parts).

Regarding claim 33: wherein said dispenser housing has a mixing module mounting section and a cover positionable over said mixing module upon receipt in said mounting section, and said motor being supported by said dispensing housing at an external location to said dispenser housing and said crank and slider mechanism being supported internally within said dispenser housing (page 1-10; via 19).

Regarding claim 35: further comprising means for monitoring a location of said mixing module rod within said mixing module (via the controller).

Regarding claim 36: wherein said means for monitoring includes an encoder associated with said motor which is a DC brushless motor and said means for monitoring further comprising a processor for processing position data received by said encoder (via motor 13 and the control unit).

Regarding claim 43: a method of avoiding film wrinkling in a the foam-in- bag dispensing system comprising feeding film past a the dispenser housing supporting said mixing module which dispenser housing presents only smooth surface portions to film sections passing to opposite sides of said dispenser before coming back into contact in a nip roller feed device in said dispensing system for bag formation (Fig. 1-7 and 2-1).

***Claim Rejections - 35 USC § 103***



The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speedy Packer of Sealed Air Corporation user's guide.

Speedy packer guide does not disclose that a home position sensor in communication with the processor. The examiner takes an official notice that such position sensor is old, well known, and available in the art to insure that any movable station is back to its home position. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Speedy machine with having a home position sensor to insure the home location of the moving dispenser.

Regarding claim 39: Speedy packer machine does not disclose that the maximum drive output is in excess of 1000 lbf at the end points. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Speedy's machine by coming up with a maximum drive output excess of 1000 lbf at the end points, in order to speed up the process of the machine, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 275, 205, USPQ 215 (CCPA 1980).

***Allowable Subject Matter***

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Claims 26-29, 30, 32, 34, and 41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sameh H. Tawfik  
Patent Examiner  
Art Unit 3721



ST.